



EUROPEAN COMMISSION
Internal Market and Services DG

Director-General

Brussels, 28 AVR. 2008 - 1729
H1/JH/LvG/zk markt.a.3 (2008) 2238

Prof. Dr Arnold Schilder
Chairman, IWCFC
De Nederlandsche Bank
P.O.Box 98
1000 AB Amsterdam
Netherlands

Subject: Call for Advice no. 3, Stocktake for FCD-review

I am pleased to send to you the Commission services' third Call for technical advice from the Interim Working Committee on Financial Conglomerates (IWCFC).

The IWCFC has already delivered advice with respect to cross sectoral work on the eligibility of own funds, and the assessment of equivalence of financial conglomerates supervision in Switzerland and in the US. These contributions will provide useful input to the review of the Financial Conglomerates Directive (FCD).

The transposition and implementation of the Financial Conglomerates Directive has raised further questions and difficulties for competent authorities in seeking to apply the underlying sectoral rules to financial conglomerates. This third Call for Technical Advice therefore asks the IWCFC to submit further technical input to the European Commission in its review of the Financial Conglomerates Directive.

The FCD provides that "the Commission shall submit to the Financial Conglomerates Committee...a report on Member State's practices, and if necessary on the need for further harmonisation" by 11 August 2007. The European Financial Conglomerates Committee ('EFCC') decided to extend the deadline for the delivery of this review to 2009.

The review will aim to analyse the effectiveness of the current framework, the Member States' practices, and the compatibility with relevant sectoral directives. A roadmap for the review, recently agreed by the EFCC, is attached. The first necessary step for the review concerns a stocktake of member states' current practices and an analysis of the impact of differences found in these practices.

The Commission services would therefore like to request the IWCFC to conduct an assessment of practices in the areas of (A) language, (B) Scope of application and (C) Internal control requirements.

I understand that the IWCFC has already made considerable progress in this area, in its general capacity as a forum where supervisors can share experiences on financial conglomerates' supervision, going beyond a stocktake of implementation practices and engaging in an in-depth discussion of effective practices.

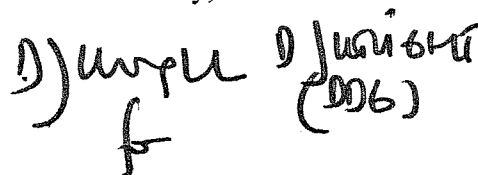
Other ongoing work may also lead to changes in the sectoral rules: The Solvency II proposal in the insurance sector, and the review of the Capital Requirements Directive. It will, therefore, also be necessary to incorporate those changes with respect to their impact on the effectiveness of the FCD. In this respect, the Commission services feel it is important for the IWCFC to maintain close contact with CEBS and CEIOPS. Although this third Call for Advice does not concern those ongoing changes, further advice from the IWCFC might be required after the work in the sectoral rules has been concluded.

I would like to reiterate the importance that the Commission services place on the challenge put to the IWCFC in our letter to you of 6 November 2006:

In particular, we will be looking to the IWCFC to provide a single view reflecting the group-wide perspective that conglomerate supervision requires, rather than a composite view reflecting differing sectoral perspectives. ... we expect the IWCFC to be able to synthesise these sectoral views into output that addresses the unique challenges posed by conglomerates. In this way, we look to the IWCFC to mirror the way that the EU prudential legislation is intended to work, with conglomerate supervision a supplement to what is done from a sectoral perspective, rather than simply a variation of the sectoral supervision.

I attach a copy of our Call for Technical Advice.

Yours sincerely,

Handwritten signature of Jörgen Holmquist, consisting of stylized initials and the name 'Jörgen Holmquist' followed by '(2006)' in parentheses.

Jörgen Holmquist

(Abel)

Contact:

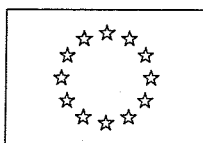
Linda van Goor, Telephone:(32-2) 296 25 33, Linda.Van-Goor@ec.europa.eu

Cc: Madame af Jochnick (CEBS)

Messrs. Steffen (CEIOPS), Tertak, Van Hulle, Pearson

Enclosures:

Call for Advice no. 3
FCD-review roadmap
Mixed Technical Group Report Nov 2005
Table of MTG-findings
Joint Forum report on Credit Risk Transfers
Joint Forum report on Risk concentrations



EUROPEAN COMMISSION

Internal Market and Services DG

FINANCIAL INSTITUTIONS

Banking and financial conglomerates

Brussels, April 2008

CALL FOR TECHNICAL ADVICE (No.3) FROM THE INTERIM WORKING COMMITTEE ON FINANCIAL CONGLOMERATES

Subject: Review of the Financial Conglomerates Directive

1. BACKGROUND

Article 31 of the Financial Conglomerates Directive¹ provides that “the Commission shall submit to the Financial Conglomerates Committee...a report on Member State’s practices, and if necessary on the need for further harmonisation”. This is commonly referred to as the FCD-review.

On 27 March 2006, the European Financial Conglomerates Committee ('EFCC') decided to conduct this review in 2008. On 11 April 2008 the EFCC decided to kick off the review with a stocktaking analysis of member states' practices in applying the FCD. The EFCC agree upon proceeding with the review with respect to the cross sectoral compatibility after the ongoing work on the Capital requirements Directive review and the Solvency II proposal has been concluded.

The Interim Working Committee on Financial Conglomerates ('IWCF') is asked to provide technical advice to assist the Commission services and the EFCC to complete the stocktaking analysis.

At all times, the review would be guided by the objectives of the FCD, which establish the supplementary supervision of regulated entities that form part of a conglomerate. The Directive provides such supplementary supervision by focusing on potential contagion, concentration and complexity.

¹ Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council.

2. SPECIFIC CALL FOR TECHNICAL ADVICE

Following agreement in the EFCC, the Commission Services wish to seek the technical advice of the IWCFE on the following issues: Language, Scope, and Internal control requirements. The Commission services would welcome the receipt of this advice by March 2009. An oral interim report by the IWCFE-chair would be appreciated in the EFCC meeting in January 2009, at which point in time the EFCC can consider the progress of the review and its timing, in the light of the debates on the CRD-review and the Solvency II proposal. Points A, B and C below describe the subjects to be addressed. Point D. describes the perspective to be taken.

A. Language

FCD art 20 sub 1 refers to technical adaptations to be adopted in the following areas:

- (1) a more precise formulation of the definitions referred to in Article 2 in order to take account of developments in financial markets in the application of the Directive;
- (2) a more precise formulation of the definitions referred to in Article 2 in order to ensure uniform application of this Directive throughout the Community;
- (3) the alignment of terminology and the framing of definitions in the Directive in accordance with subsequent Community acts on regulated entities and related matters.²

This Call for Advice would regard only point (1) and (2).

In November 2005, the Mixed Technical Group identified several issues relating to the definitions and terminology of the FCD, namely articles 2(8) "financial sector", 2(12) "group", 2(14)"financial conglomerate", and 2(18)"intra group transactions".

In their respective expert groups, the IWCFE has observed differences in interpretations of art 2(13) "close links" because of "participations" or "control", art 2(17) "relevant competent authority", 2(18) "intra group transactions", and 2(19) "risk concentration".

B. Scope

In November 2005, the Mixed Technical Group put together a list of issues relating to the implementation of articles 3, 4, 5, 6(3) and 6(5) of the FCD, on identification, notification and scope. The MTG report is attached.

² As discussed in the EFCC of 27 March 2007, this alignment would refer to the Capital Requirements Directive, the Re-insurance Directive and the Insurance Groups Directive. The Services suggest to incorporate the work underway for Insurance supervision, Solvency II, as well.

C. Internal control requirements

Part C would cover the implementation of the internal control requirements as currently prescribed by the FCD in articles 6(1), 7, 8, 9 and Annex II.

Art 31 requires a report on Member States' practices, and, if necessary, on the need for further harmonisation, with regard to, among others, "the definition of significant intra-group transactions and significant risk concentration and the supervision of intra-group transactions and risk concentration referred to in Annex II, in particular regarding the introduction of quantitative limits and qualitative requirements for this purpose."

FCD art 20 sub 1 mentions technical adaptations should be adopted in, among other areas, "the coordination of the provisions adopted pursuant to Articles 7 and 8 and Annex II with a view to encouraging uniform application within the Community."

The IWCFE expert group on intra group transactions and risk concentrations (IGT&RC) is working on producing a paper on current supervisory practices. The Joint Forum has updated its investigation of RC and Credit Risk Transfer (CRT) supervision in light of the 2007 financial turmoil. It has also assessed the effectiveness of its 2005 supervisory recommendations on RC&CRT and updated the associated list of actions to be carried out within this field. Both reports are attached.

D. Issues to be considered

The IWCFE will need to consider the member states' practices when implementing the articles mentioned and the extent to which differences found may cause problems.

- investigate Member State practices with respect to the implementation of the specific articles related to the identified problem-areas A, B or C;
- explore the impact of national differences, if found, especially in the light of the objectives of the FCD;
- make a preliminary assessment whether differences in current practices, based on the current FCD-text, might cause problems that hamper achieving the objectives of the directive.

For the work on internal control requirements, the Commission and the EFCC would also need to know how the findings of the Joint Forum regarding the control of risk concentration and credit risk transfers respectively, apply to the European member states, given the current FCD-text.